

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

September 16, 2004

A meeting of the Board of Environmental Protection was held on Thursday, September 16, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott

Absent: Nancy Ziegler

<u>Staff:</u>	Bureau of Air Quality	Jeff Crawford
	Bureau of Land and Water Quality	Dana Murch
	Bureau of Land and Water Quality	Judy Gates
	Bureau of Land and Water Quality	Robin Clukey
	Bureau of Remedation and Waste Management	Cyndi Darling

Others: David Littell, Deputy Commissioner
Dennis Harnish, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 12:30 p.m.)

The Board convened at 9:00 am for a public hearing on:

Chapter 151, Architectural and Industrial Maintenance (AIM) Coatings / New

Following the public hearing, the Board convened its regular meeting.

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner David Littell reported the following:

Clean Air Interstate Rule: Press coverage regarding the Department's comments on the US Environmental Protection Agency's Clean Air Interstate Rule may be out soon. Maine's concerns with this rule are related to air pollution control requirements, the timing of requirements and the ability of Maine to adopt its own more stringent rules.

Penobscot River Algae Bloom: To follow-up on the report at the last meeting regarding this event, data demonstrates that the bloom has abated. The Department has maintained regular contact with Katahdin Paper to work with them on phosphorus reductions. The Department will take a long-term look at phosphorus issues associated with the river and plans to address phosphorus in future re-licensing of the mill.

Wetland Pilot Project: US Environmental Protection recently contacted the Department on the possibility of funding a pilot project regarding Maine acting as a regional and national lead on wetland water quality standard development. EPA wants to develop national standards and is looking at Maine to develop standards because Maine is a leader in this area. Funding for this project would be provided by EPA if it goes forward.

Large Vessel Discharge Rule: The Legislature passed a law last session that requires regulation of large vessel wastewater discharges. The Department has been working with a stakeholder group. The Board should see draft rules this fall.

Questions:

Board member Matt Scott asked about the nature of the algae bloom and its color (blue green or green)

David Littell advised that although the specific species information was not available to him, Department testing confirmed that the bloom didn't contain toxins or cause any fish kill. Additionally, the Penobscot Indian Nation contacted the Department regarding concerns related to toxins in the bloom which the Department later confirmed were not present.

B. CHAIRMAN'S COMMENTS: Ms. Ziegler is recovering well from surgery and will rejoin the Board in October.

C. EXECUTIVE ANALYST COMMENTS:	None
D. BOARD CALENDAR:	Reviewed
E. DEPARTMENTAL ORDERS:	Reviewed
F. EXECUTIVE SESSION:	None

II CONSENT AGENDA ITEMS

The Board voted (7-0-1-1) to approve agenda item 1 as presented.

Board members Ernest Hilton, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott voted to support the motion. Board member Nancy Anderson abstained. Member Nancy Ziegler was absent

1. BEP MINUTES – July 1, 2004

The Board voted (6-0-2-1) to approve agenda item 2 as presented.

Board members Ernest Hilton, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott voted to support the motion. Board members Irving Faunce and Nancy Anderson abstained. Member Nancy Ziegler was absent.

2. BEP MINUTES – July 15, 2004

The Board voted (8-0-0-1) to approve agenda items 3, 4, 5, 6, 7, 8 and 9 as presented.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott voted to support the motion. Board member Nancy Ziegler was absent.

3. JOSEPH CARLOS and ALBINA CARLOS, Waldoboro – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
4. SCOTT CONNORS, Wiscasset – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
5. S&G CONSTRUCTION, INC., Sangerville – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
6. HANINGTON TIMBERLANDS, INC., Dennysville – Administrative Consent Agreement (BLWQ – Land)
7. MID-MAINE WASTE ACTION CORPORATION, Auburn – Administrative Consent Agreement (BAQ)
8. COUNTY ABATEMENT, INC., Orono – Administrative Consent Agreement (BRWM)
9. D.H. PINNETTE & SONS, INC., Skowhegan – Administrative Consent Agreement (BRWM)

III. Regular Agenda

1. USE ATTAINABILITY ANALYSIS for RAGGED AND SEBOOMOOK LAKES / GLHA HYDRO STORAGE PROJECT (petitions to intervene)

Staff: Dana P. Murch: Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to grant intervenor status to FPL Energy Maine Hydro LLC, Maine Rivers, Trout Unlimited and Natural Resources Council of Maine regarding the Use Attainability Analysis for Ragged and Seboomook Lakes. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and 06-069 CMR Chapter 2 and Chapter 30.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott voted to support the motion. Board member Nancy Ziegler was absent.

2. DEPARTMENT OF INLAND FISH AND WILDLIFE / ALL TIDAL BOAT RAMP AT MERE POINT (post to public hearing)

Staff: Cynthia Bertocci, BEP

The Board voted (8-0-0-1) on a motion to schedule the public hearing on the application of the Department of Inland Fish and Wildlife to construct an all-tidal boat ramp at Mere Point for November 17 and 18, 2004 in Brunswick. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, and 06-096 Chapter 30.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott voted to support the motion. Board member Nancy Ziegler was absent

3. EVERGREEN WIND POWER FARM / APPEAL BY MAINE AUDUBON (revised Board Order)

Staff: Robin Clukey, Bureau of Land and Water Quality

Staff: Judy Gates, Bureau of Land and Water Quality

The Board voted (6-0-2-1) on a motion to incorporate the following amendment into the revised order as follows:

Page 4 of 5 – Second Paragraph:

...securing financing for the project, **and submit any pre-construction and pre-operation data to the Department prior to operation of the facility.**

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Richard Wardwell and Matt Scott voted to support the motion. Board members Virginia Plummer and Jean T. Wilkinson abstained. Board member Nancy Ziegler was absent.

The Board voted (6-0-2-1) on a motion to approve the revised Board Order that denies the appeal of Maine Audubon and affirms the Commissioner's decision to approve the application of Evergreen Wind Power LLC to construct a wind power facility in Mars Hill with the following additional amendment:

Page 4 of 5: Second Paragraph and conclusion 4:

MDIFW, and must include **provisions for gathering** information on bird numbers...

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Richard Wardwell and Matt Scott voted to support the motion. Board members Virginia Plummer and Jean T. Wilkinson abstained. Board member Nancy Ziegler was absent.

The vote was taken pursuant to 38 M.R.S.A., Section 341-D (4), 344 and 480 A through Z, 06-096 CMR Chapter 2, Section 21 (B).

4. STATE PLANNING OFFICE / WEST OLD TOWN LANDFILL (Overview of Project – Distribution of Record) – no vote to be taken

Staff: Cynthia S. Bertocci, BEP Executive Analyst

Staff: Cyndi Darling, Bureau of Remediation and Waste Management

Staff reviewed the index of the record and provided an overview of the site map.

Next Regular Board Meeting – Thursday, October 7, 2004 – Holiday Inn / Ground Round, Augusta

BOARD OF ENVIRONMENTAL PROTECTION
Holiday Inn / Ground Round, Augusta Maine
September 16, 2004

BOARD TO RECONVENE AT 9:00 TO CONDUCT PUBLIC HEARING(S):

Chapter 151, Architectural and Industrial Maintenance (AIM) Coatings / New

BOARD TO RECONVENE AT APPROXIMATELY 10:30 TO ITS REGULAR MEETING AGENDA:

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 005 1. BEP MINUTES – July 1, 2004 (approval)
- 009 2. BEP MINUTES – July 15, 2004 (approval)
- 015 3. JOSEPH CARLOS and ALBINA CARLOS, Waldoboro – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 019 4. SCOTT CONNORS, Wiscasset – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 023 5. S&G CONSTRUCTION, INC., Sangerville – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 029 6. HANINGTON TIMBERLANDS, INC., Dennysville – Administrative Consent Agreement (BLWQ – Land)
- 033 7. MID-MAINE WASTE ACTION CORPORATION, Auburn – Administrative Consent Agreement (BAQ)
- 037 8. COUNTY ABATEMENT, INC. Orono – Administrative Consent Agreement (BRWM)
- 043 9. D.H. PINNETTE & SONS, INC., Skowhegan – Administrative Consent Agreement (BRWM)

III. REGULAR AGENDA ITEMS

- 049 1. USE ATTAINABILITY ANALYSIS for RAGGED AND SEBOOMOOK LAKES / GLHA HYDRO STORAGE PROJECT (petitions to intervene)
Staff: Dana Murch, Bureau of Land and Water Quality
- 059 2. DEPARTMENT OF INLAND FISH AND WILDLIFE / ALL TIDAL BOAT RAMP AT MERE POINT (set public hearing date)
Staff: Cynthia S. Bertocci, BEP Executive Analyst
- 061 3. EVERGREEN WIND POWER FARM / APPEAL BY MAINE AUDUBON (revised Board Order)
Staff: Robin Clukey, Bureau of Land and Water Quality
- 4. STATE PLANNING OFFICE / WEST OLD TOWN LANDFILL (Overview of Project - Distribution of Record) – no vote to be taken

Staff: Cynthia S. Bertocci, BEP Executive Analyst

Staff: Cyndi Darling, Bureau of Remediation and Waste Management

Next Regular Board Meeting – Thursday, October 7, 2004 – Holiday Inn / Ground Round, Augusta